

LAKE COUNTY IMPACT FEE COMMITTEE

June 15, 2006

The Lake County Impact Fee Committee met on Thursday, June 15, 2006, in Room 233 of the Round Administration Building in Tavares, Florida. Ordinance 1996-31, effective April 19, 1996, created this Committee to review impact fees adopted by the Board of County Commissioners, evaluate the expenditure of funds collected via impact fees, and make recommendations to the Board of County Commissioners.

Ordinance 2004-26, enacted April 6, 2004, effective April 13, 2004, changed the name of the Impact Fee Evaluation and Review Committee to the "Lake County Impact Fee Committee" and changed membership from eleven members to ten members. A current commissioner of the Lake County Board of County Commissioners shall serve as liaison in a nonvoting position and shall not be considered a member.

County Commission Liaison

Commr. Jennifer Hill

Members Present:

Jean Kaminski, Chairman
Frank Royce, Vice Chairman
Bill Benham
Jim Miller
Robert Miller
Ray San Fratello

Members Not Present:

Bill Calhoun
Tommy Crosby
Nancy Hurlbert
Glenn Irby

Staff Present:

Wendy Wickwire, Impact Fee Coordinator
Sherie Ross, Public Hearing Coordinator
Sanford A. Minkoff, County Attorney
Gary Kaiser, Director of Public Safety/Fire Chief

Guests:

Steve Johnson, School Board Attorney
Doug McCarl, Assistant Director of Finance, Lake County Schools
T. J. Fish, Lake Sumter Metropolitan Planning Organization (MPO)

Jean Kaminski called the meeting to order at 9:30 a.m. She noted that a quorum was present and confirmed that the meeting had been properly advertised in the newspaper.

Minutes

Regarding the third sentence in the third paragraph on Page 3 of the March 16, 2006 Impact Fee Committee meeting minutes, Sherie Ross stated that she had received a phone call from Tommy Crosby in which he said he had not made the suggestion that was included in that sentence. Ms. Ross said she had listened to

the tape; and although Frank Royce had made the statement, he had said “he thought” Mr. Crosby had made that suggestion. If that is acceptable to the Committee, Ms. Ross said she could amend the sentence to read: “Mr. Royce said he thought it had been Mr. Crosby’s suggestion originally that the districts be within the individual school attendance zones, whether it be elementary, middle, or high school.”

Mr. Royce clarified that he had meant to say Mr. Fix instead of Mr. Crosby.

MOTION by Frank Royce, SECONDED by Ray San Fratello to approve the March 16, 2006 Lake County Impact Fee Committee minutes, as amended.

FOR: Kaminski, Royce, Benham, Robert Miller, San Fratello

AGAINST: None

NOT PRESENT: Calhoun, Crosby, Hurlbert, Irby, Jim Miller

MOTION CARRIED: 5-0

Regarding the annual fire impact fee report, Gary Kaiser said that he was not prepared to present this report. What they have available is not of the quality and depth of information that he felt this Committee is looking for and is entitled to. Therefore, he would prefer to present the report at the October meeting; they will then have eleven months of data and information and will have concluded the fiscal year. Ms. Kaminski said she did not have a problem with that. When she asked if that would conflict with the regular schedule, Wendy Wickwire said the October meeting also includes the school report; but both reports were given at the same meeting last year, and it worked out fine. In response to Ms. Wickwire, Mr. Kaiser said he would prefer giving the annual fire impact fee report at the September/October Impact Fee Committee meeting in future years.

Sandy Minkoff came into the meeting. He said that he has reviewed the Banberry case. He could not review the Volusia County case that was involved in this issue because it was not an appellate case; it was a circuit court case. Therefore, it was not available in printed form. He also reviewed the Osceola County court case. It was his understanding that this Committee wanted an opinion on whether the Osceola County court case decision was in conflict with the Banberry case or the Volusia County case. He stated that the Osceola County and the Banberry cases are consistent with each other. Banberry held that in trying to determine the amount of the fee, it was necessary to look at the credits; but it was an individualized factual determination that would need to be made in each case. That is similar to what the Osceola County judge did. He made an individualized determination and accepted the School Board’s decision that they were not going to use some of the other revenue sources to create new capacity. The judge said that was within their constitutional ability to make that type of decision. Once they did that, it should not, could not be figured into the calculation. In the Volusia County case, Volusia County agreed to give additional credits; that case was not appealed so for Lake County’s purposes, that case is not authority to use. The Volusia County case that was appealed at that time was the case that said seniors did not have to pay any school impact fees. The Volusia County court agreed that if there could be no children in a development, a school impact fee could not be charged. Since the Osceola County case was more current and involved the same impact fee structure as Lake County, it would be authoritative for Lake County. He reiterated that he felt all the cases are consistent with each other. Ms. Kaminski stated that she is a big proponent of credits because she feels it avoids double taxation.

T. J. Fish came into meeting.

Ms. Kaminski asked if there were any updates on the concurrency issues. Mr. Minkoff replied that he along with Steve Johnson and some city attorneys have been diligently working on the school concurrency agreement. The agreement is close to completion as far as its preparation. The remaining language changes should not be difficult ones. There are still three outstanding issues, which the policy makers must decide; those issues include the level of service, concurrency service areas, and charter schools.

Participants in the school concurrency group adopted a level of service, but there has been some thought that it should be revisited. It has been agreed that the concurrency service areas will be less than countywide, but the actual areas have not been determined. Initially the group was not planning on counting non-conversion charter schools (private charter schools) as capacity. The Department of Community Affairs (DCA) has issued an opinion indicating that they believe those schools should be counted. In most rezoning cases, the County has begun adding concurrency language with the intention of enforcing it now even though the Comprehensive Plan changes are not completed. The Board of County Commissioners (BCC), School Board, and most cities would like to see those Comprehensive Plan changes completed as soon as possible. When Ms. Kaminski asked if the draft school concurrency document is available, Mr. Minkoff said the latest update (April 17) is available from his office. It is not on the web site. He said he would e-mail it to Ms. Wickwire, and she can distribute it to this Committee.

In response to Mr. Royce, Mr. Minkoff said that previously the County was never able to demand more than the impact fees so it has never been an issue as to whether money received over and above the impact fee amount should be calculated in the impact fee study. That would be something to explore as this Committee goes forward in reviewing the impact fee update later this summer because it is an issue in transportation as well as with schools. Mr. Johnson said this has been one of the problems in completing the final draft of the school concurrency project as everything is interrelated. It may be necessary to make some changes after the first few couple years, depending on how it works out. Regarding Mr. Royce's question, it was the opinion of Mr. Minkoff that the additional money probably would not be counted because it would be difficult to calculate.

Mr. Minkoff said transportation concurrency is required to be done by December 1, 2006. The Department of Public Works, the Lake Sumter Metropolitan Planning Organization (MPO), and all the cities are currently working together to create a countywide transportation concurrency system. The record keeping in transportation is somewhat more difficult than it is in education because trip generation can be more difficult to calculate than students. The County is working with a consultant to develop a computer database by working off the County building permit system. By December, he felt there should be a countywide system that all the cities and the County could implement at the same time. Although the state requirement is to adopt the system by December 1, the intention is to present it to councils and commissions by October so the first and second readings can be done no later than November. There are several transportation systems to be taken into account: the state transportation system, the County transportation system, and the municipal transportation systems.

When Ms. Kaminski asked about viewing the draft proportionate share ordinance, Mr. Fish said the only thing available at this time is a model ordinance that Florida Department of Transportation (FDOT) put together. That framework is being tailored to Lake County. At the request of Ms. Kaminski, he said he would e-mail this to Ms. Wickwire so she could distribute it to all the members of this Committee. By July, the draft should be available. The ordinance itself talks about the formula. One of the critical elements of the ordinance is the requirement to communicate so that a city is not impacting another city without contacting that city. No city should be approving any development order without the County being party to it if it is affecting a County road and vice versa.

Mr. Johnson spoke of specialty charter schools in Lake County. He said Gregg Welstead and Harry Fix have been talking with DCA. As many of the students attending those schools are from out of state and out of county, Mr. Welstead, Mr. Fix, and Mr. Johnson have taken the position that those children should not be counted in any calculation. A bigger issue is the non-conversion charter schools (private charter schools operating in the County). Now that DCA has taken the position to include all charter schools in the numbers, the School Board's concern is that charter schools could close at any time; and the School Board could not continue to operate and use the facility yet the students in that school were included in the calculations. Those students would then need to be accommodated in the public schools. Discussions have taken place regarding the action to be taken to contest the DCA interpretation of the Statute regarding charter schools. The School Board has been in contact with Groveland regarding their elementary and middle charter school. Although there is no final agreement at this time, Groveland has tentatively agreed to build to State Requirement for Educational Facilities (SREF) standards so that if the charter school fails,

the School Board would be able to take over the operation of that school. With that condition, the School Board is agreeable to including the Groveland charter school in the calculations.

When Ms. Kaminski asked about private schools that are not charter schools, Mr. Minkoff said they are counted in the student generation rates based on historical data for public and private schools. Students cannot be forced to go to charter schools; they would always have the choice to go to a public school. Mr. Minkoff added that the School Board would prefer to treat the private charter schools like other private schools.

In response to Commr. Hill about failing schools and the governor sending in companies to run them, Mr. Minkoff said the schools would still be public schools; and the School Board would count those schools as capacity.

Bill Benham asked how often the factor used in determining the percentage of new students who would go to a private school is updated and if it is indicative of the income in the area. In discussions of data analysis, Mr. Minkoff said there is not much debate about the student generation rates. The methodology is basically settled. There is not a lot of variation. Age probably has more to do with a change in the generation rate than financial resources.

Mr. Minkoff stated that he felt there will be a much larger impact in the transportation sector that what people are anticipating, particularly on the commercial side. Mr. Fish added that transportation concurrency has been in effect for 20 years, but the problem has been that there has always been a misunderstanding by the smaller local governments as far as responsibilities. The importance of cumulative impacts was never realized, but that is about to change.

When Ms. Kaminski asked about the bondability of impact fees, Mr. Minkoff said he has been waiting on the new impact fee studies. When the entire impact fee ordinance is rewritten, those provisions would be included. He felt concurrency would greatly impact that as there will be more upfront payments and more upfront dealings with larger developers.

Ms. Wickwire asked if there has been any timeline established as to when the school impact study would be completed. Mr. Johnson said he talked with Randy Young about two weeks ago about school concurrency. At that time Mr. Young was starting the last part he has to do after the data generation. Mr. Johnson thought the contract called for Mr. Young to have it done 60 days from the date that he actually started so Mr. Johnson felt it should be another 45 days until the study is complete. When Ms. Wickwire asked if this Committee would like to plan on reviewing the study in October, Ms. Kaminski said that would be a good idea if it is available. She suggested that the review of the annual fire impact fee report be heard first although discussion of the draft school impact fee study may not be very detailed if the members of Committee are not able to receive it prior to the meeting.

Mr. Minkoff spoke of the increase in costs for transportation projects.

Ms. Kaminski noted that Lake County is already running 18 percent behind on permits from the same timeframe last year. Commercial activity is also down slightly.

Mr. Minkoff, Mr. Johnson, and Mr. Fish left the meeting.

Ms. Wickwire distributed a copy of the Scope of Services, Lake County Impact Fee Studies, May 31, 2006, Version 2, Tindale-Oliver & Associates. She explained that the Selection Committee got together for a scope meeting to further refine the scope in order to ensure the figures were accurate. Several things that came out of that discussion led to some increases. For example, the library impact fee went up slightly because they were not aware of the complexity of Lake County's library system. Ms. Kaminski said the original scope included fewer meetings; but more meetings were added, thinking this Committee may want more meetings.

Jim Miller came into the meeting.

Ms. Wickwire stated that the contracts are in the County Attorney's office at this time. Ms. Kaminski added that this scope of services includes all the impact fees except schools. Ms. Wickwire pointed out that of that \$200,000 total cost, almost \$79,000 of it is local trip characteristic studies. Those studies basically validate trip lengths and trip generation numbers for Lake County itself. In the past, the numbers used were statewide or national numbers out of the Institute of Transportation Engineers Trip Generation Book. Those are good averages if local numbers are not available. The local studies verify the numbers being used. The BCC could decide they do not want to do those studies. The committee has proposed a trip characteristic study for churches with additional uses (daycare center, school). Current fees are for the standard church with Sunday and Wednesday night services. Ms. Kaminski said the additional uses may be generating additional traffic yet no additional fee is charged. She noted that originally this Committee reduced the impact fee for a daycare center by 50 percent as the fee was very high. Studies have shown that trips to daycare centers were generally pass-through trips rather than primary trips. Ms. Wickwire added that the County is not always aware that a daycare is placed within a church. Although this requires an occupational license, communication is not always good between governmental entities so the proper impact fee does not get charged. In addition, sometimes Sunday childcare at a church expands to a daycare center.

Ms. Wickwire stated that the next meeting on October 19 would probably be a long meeting as it may include the first presentation of the school impact fee study and annual reports for both the school impact fee and the fire impact fee as well as the first presentation of the other impact fee studies by Tindale-Oliver & Associates.

Bill Benham asked this Committee how important and useful it felt tracking permits would be. Ms. Kaminski said this Committee used to receive that information on a regular basis. The County still prepares it as she receives it as part of her job. She felt this body could request that information from the County. This information is also available from the municipalities. Mr. Benham felt this Committee should be sensitive to that activity as impact fees affect how many permits are pulled. Ms. Wickwire said there are many studies that prove otherwise. Jim Miller commented that every time impact fees are raised, growth has increased. He would like to see a ten-year history of the number of permits and impact fee increases. Ms. Kaminski felt that the rates of impact fees have caused builders to construct more upper-end housing rather than moderate, more affordable housing.

Mr. Royce spoke of a workshop that the City of Eustis will be holding in two weeks regarding the type of program to be instituted that would require a certain percentage of affordable housing to be built in a new development, paying a fee to be paid into a fund, or some other option. Ms. Kaminski said this is a discussion going on all over the state at this time. Ms. Wickwire said there are some counties discussing an impact fee for affordable housing,

There being no further business, the meeting was adjourned at 10:35 a.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Jean Kaminski
Chairman